

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA**

UNITED STATES OF AMERICA,)	CASE NO. 8:05CR24
)	
Plaintiff,)	
)	
vs.)	AMENDED
)	TENTATIVE FINDINGS
)	
GUILLERMO BORBOA,)	
)	
Defendant.)	

The Court has received the Second Revised Presentence Investigation Report ("2012 PSR"). On August 10, 2011, the Defendant filed a Demand for Speedy Trial and Request for Final Disposition (Filing No. 79) renewing his objections (at Filing No. 43) to the November 22, 2005, Revised Presentence Investigation Report and to the Court's Tentative Findings (Filing No. 46). The government adopted the 2012 PSR. (Filing No. 86.) See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Amended Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 2005 WL 50108 (U.S. Jan. 12, 2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The Defendant's objections, first raised in Filing No. 43 and renewed in Filing No. 79, do not affect the Defendant's criminal history category, his guideline calculation, or his safety-valve eligibility.
2. Nonetheless, the Court will hear the Defendant's objection to paragraph 39 of the Second Revised Presentence Report at the time of sentencing.
3. The Court intends to adopt the PSR in all other respects.

4. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing.

5. Absent submission of the information required by paragraph 2 of this Order, these tentative findings are final.

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 10th day of December, 2012.

BY THE COURT:

s/Laurie Smith Camp
Chief United States District Judge